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SERIES I No. 2

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA, DAMAN AND DIU

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### EXTRAORDINARY

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#### GOVERNMENT OF GOA, DAMAN AND DIU

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/A/7/926/73

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 11th April, 1973 is hereby published for general information in pursuance of the provisions of Rule 127 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Mundkars (Protection from Eviction) Bill, 1973

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The Goa Daman and Diu Mundkars (Protection from Eviction) Bill, 1973

(Bill No. 10 of 1973)

#### A BILL

*to provide for better protection to mundkars including agricultural labourers and village artisans against eviction from their dwelling houses and for granting them the right to purchase the same and to make certain other provisions connected herewith.*

Whereas it is expedient to give better protection to the mundkars including agricultural labourers and village artisans against eviction from their dwelling houses and to grant them the right to purchase such houses with the sites where such houses have been built at a reasonable price;

Whereas it is expedient to abolish the system of free service connected with the agricultural land

rendered by mundkars and turn it into remunerated one;

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-fourth year of the Republic of India as follows:

## CHAPTER I

### Preliminary

1. **Short title, extent and commencement.** — (1) This Act may be called the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1973.

(2) It extends to the whole of the district of Goa of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. **Definition.** — In this Act, unless the context otherwise requires —

(a) "Administrative Tribunal" means the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965; 6 of 1965.

(b) "agricultural labourer" means a person whose principal means of livelihood is the income he gets as wages in connection with the agricultural operations he performs and who has neither a homestead nor any land, either as owner or as tenant in possession, on which he could erect a homestead;

(c) "agriculture" with its grammatical variations and cognate expressions, includes horticulture, the raising of crops or coconut, arecanut, cashew or mango gardens and dairy farming;

(d) "appointed date" means the date on which this Act comes into force;

(e) "bhatkar" means a person who owns agricultural land on which a mundkar has a dwelling house;

(f) "Collector" means the Collector of the district and includes any other officer appointed by the Government to exercise and perform the powers and functions of a Collector under this Act;

(g) "dwelling house" means the fixed habitation in which mundkar resides, whether such habitation was constructed by the mundkar at his own expense or at the bhatkar's expense or with financial assistance from the bhatkar and includes —

(i) the site on which the dwelling house is standing;

(ii) the land around and appurtenant to such dwelling house, subject to a maximum limit of five metres, if the land is within the jurisdiction of a village Panchayat, and two metres, if it is not within such jurisdiction, from the outer walls of the dwelling house;

Provided that, where there is on the appointed date in the property of the bhatkar, at a distance less than double the aforesaid limit a dwelling house of another mundkar, the land appurtenant to such dwelling house shall be half the land lying between the outer walls of the two dwelling houses;

(iii) the customary easement, if any, which the residents of the dwelling house have been

enjoying for access to a public road or a well or any other place; and

(iv) the house, hut or any structure with its materials wherein the mundkar resides;

(h) "factory" has the meaning assigned to it in clause (m) of section 2 of the Factories Act, 1948;

Central Act  
63 of 1948.

(i) "Government" means the Administrator of the Union territory of Goa, Daman and Diu appointed under article 239 of the Constitution;

(j) "land" means any land used either for purpose of agriculture or for purposes ancillary thereto and includes, waste land, forest land and land meant for pasture;

(k) "Mamlatdar" has the meaning assigned to it in clause (c) of section 2 of the Goa, Daman and Diu Mamlatdar's Court Act, 1966;

9 of 1966

(l) "member of family" shall mean, in the case of a joint family, any member of such family and, in other cases, spouse, descendants, parents, brothers and sisters and their spouses and descendants;

(m) "mine" has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952;

Central Act  
35 of 1952

(n) "mundkar" means a person who, with the consent of the bhatkar especially for the purpose of cultivation of, or for the purpose of watching and protecting, an agricultural land of the bhatkar, lawfully resides with a fixed habitation in a dwelling house on such agricultural land and includes a member of his family, and agricultural labourer and a village artisan, but does not include —

(i) a person paying rent to the bhatkar for the occupation of the dwelling house;

(ii) a domestic servant or a chowkidar who is paid wages and who resides in an out-house, house-compound or other portion of his employer's residence;

(iii) a person employed in a mill, factory, mine, workshop or a commercial establishment and is residing in the premises belonging to the owner or person in charge of such mill, factory, mine, workshop or commercial establishment, in connection with his employment in such mill, factory, mine, workshop or commercial establishment; and

(iv) a person residing in the whole or part of a house belonging to another person or in an out-house existing in the compound of the house, as a care-taker of the said house or for purposes of maintaining it in habitable condition.

**Explanation.** — A person shall be deemed to be lawfully residing with the consent of a bhatkar in a dwelling house for a period exceeding six months from the appointed date and the bhatkar has not initiated any proceedings, during the said period of six months, to evict such person from the dwelling house, through a competent court of law, on the ground that such person was a trespasser or, having so initiated such proceeding, does not succeed in obtaining a decree for the eviction of such person.

(o) "person" includes a joint Hindu Family;

(p) "prescribed" means prescribed by rules made under this Act;

(q) "Senior Town Planner" means an officer appointed by the Government to enforce Town Planning Regulations in the Union territory of Goa, Daman and Diu;

(r) "tribunal administrative" means the Tribunal constituted under article 644 of the decree No. 23,229 dated the 15th November, 1933;

(s) "village artisan" means a person whose principal means of livelihood is the income he derives from working as an artisan in a village and who has neither a homestead nor any land, either as owner or as tenant, in possession, on which he could erect a homestead.

## CHAPTER II

### Rights and Liabilities

**3. Rights of a mundkar to be heritable.**—The rights of a mundkar in his dwelling house shall be heritable and shall be transferable only to a person who is a member of his family.

**4. Bar to eviction from a dwelling house and restoration of possession.**—(1) Notwithstanding anything to the contrary provided in any custom, usage, contract, decree or order of any court or tribunal or any law, no mundkar shall be evicted from his dwelling house except in accordance with the provisions of this Act.

(2) Any mundkar, who was in occupation of a dwelling house on the 4th February, 1971 and was evicted from such dwelling house thereafter but before the appointed date, shall be entitled to the restoration of such dwelling house, if—

(i) he makes an application to the Mamlatdar, in the prescribed form, within six months from the appointed date, for the restoration of such dwelling house; and

(ii) the bhatkar is not able to prove that—

(a) the mundkar was evicted from the dwelling house in execution of an order of the Administrator of Concelho or Tribunal Administrative or the Mamlatdar or the Administrative Tribunal or a Civil Court; or

(b) the mundkar was paid by the bhatkar any consideration in cash or kind or given an alternative site for the construction of a dwelling house or an alternative dwelling house;

(c) the dwelling house has not been destroyed, dismantled or removed.

*Explanation.*—For the purposes of sub-clause (c) if it is proved to the satisfaction of the Mamlatdar that the dwelling house was destroyed, dismantled or removed in order to defeat the purposes of this Act, the bhatkar shall be liable to provide a similar dwelling house at his own cost and in his own nearest property. If the bhatkar does not possess such land the Mamlatdar may provide for the same, following the provisions under section 17.

(3) mundkar, who is in possession of a dwelling house on the appointed date but is evicted thereafter in contravention of the provisions of this Act, may, within one year from the date of his eviction, apply to the Mamlatdar in the prescribed form, for the restoration of his dwelling house.

(4) On receipt of an application under sub-section (2) or sub-section (3), the Mamlatdar shall, after holding such inquiry as may be prescribed, decide whether the applicant is entitled to the restoration of the dwelling house and may pass such order thereon as he deems fit. The Mamlatdar may also order that the bhatkar, who unlawfully evicted the mundkar, shall pay such compensation to the mundkar as is payable by the bhatkar to him under sub-section (7).

(5) No order under sub-section (4) shall be passed by the Mamlatdar, unless the person against whom the order is proposed to be passed has been given a reasonable opportunity of being heard in the matter.

(6) Notwithstanding anything contained in the foregoing provisions, where the Collector is satisfied that a mundkar has, for reasons beyond his control, omitted to take steps for restoration of possession within the time limit specified in sub-section (2) or sub-section (3), as the case may be, he may, on his own motion or on the application made by the mundkar, within one month from the date the omission is known to him, condone the delay and direct the Mamlatdar to pursue the matter for the restoration of the dwelling house and he may after holding such inquiry as may be prescribed, pass such order thereon as he deems fit:

Provided that, no action shall be taken by the Collector under this sub-section, after a period of one year from the time limit specified in sub-section (2) or sub-section (3), as the case may be.

(7) Any person, who evicts or causes the eviction of a mundkar, in contravention of sub-section (1), or, in any manner, disturbs or interferes with the customary easement or other rights which a mundkar is entitled to enjoy under section 6, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both and shall be liable also to pay compensation to the mundkar for the damages caused to him by his eviction, or the disturbance or interference with the customary easement or other rights which he is entitled to enjoy.

(8) Any person, who attempts to contravene or abets the contravention of the provision of sub-section (1) of section 6, shall be deemed to have contravened the said provisions.

(9) Any person who does not restore the possession to the mundkar, in pursuance of an order made under sub-section (4) or sub-section (6), shall, in addition to any other penalty to which he may be liable, be summarily removed by the Mamlatdar, who thereupon, shall restore the possession to the mundkar.

**5. Relief in certain cases of threatened wrongful dispossession.**—(1) Any mundkar in possession of his dwelling house, who apprehends that he may be dispossessed of the dwelling house by or on behalf of the bhatkar contrary to the provisions of this Act, may, in the prescribed manner, apply to the Mamlatdar for an order safeguarding his right to possession.

(2) On receipt of such application, if the Mamlatdar after holding such inquiry as may be prescribed, is satisfied that the applicant is entitled to continue in possession, he may, by order, direct the

bhatkar or the person acting or purporting to act on behalf of the bhatkar to refrain from disturbing the possession of the mundkar otherwise than in accordance with the law.

(3) In any proceeding under this section, if it is proved to the satisfaction of the Mamlatdar, by affidavit or otherwise, that the bhatkar or the person acting or purporting to act on behalf of the bhatkar is threatening the mundkar with the aim of evicting him from his dwelling house, the Mamlatdar may, by order, grant a temporary injunction restraining the bhatkar or such person from evicting the mundkar or threatening him or otherwise causing him injury, until the final disposal of the pending proceeding or until further orders.

**6. Right of mundkar to enjoy supply of power or water or any customary easement, etc.**— (1) (a) Notwithstanding anything contained in any law or in any contract, or in any judgement, decree or order of any court or tribunal, no bhatkar, either by himself or through any person acting or purporting to act on his behalf shall, without just or sufficient cause, cut off, withhold, or interfere with any supply of electricity or water or any customary easement enjoyed by the mundkar, immediately before the appointed day in respect of his dwelling house.

(b) If any such supply or easement is interrupted by any act or omission of the bhatkar, the mundkar, within six months from the date on which the cause of action arose, may make an application to the Mamlatdar for an order directing the restoration of such supply or customary easement and the Mamlatdar may, after holding such inquiry as may be prescribed pass such order as he considers fit.

(2) When any mundkar apprehend that the bhatkar may act in contravention of the provisions of sub-section (1), he may apply to the Mamlatdar for the grant of an injunction restraining the bhatkar from so acting and, on such application, the Mamlatdar, if he is satisfied that it is so require in the interests of justice, grant an injunction or pass such other order as he deems fit.

(3) In the enjoyment of any right of supply or customary easement, the mundkar shall not disturb the bhatkar in the enjoyment of the adjoining portion of his property, around the mundkar's dwelling house. If the mundkar so disturbs the bhatkar, he shall be liable to pay to the bhatkar the compensation for the loss caused thereby as may be fixed by the Mamlatdar in the prescribed manner.

**7. Mundkar to have right to repair, maintain and improve his dwelling house.**— A mundkar shall have a right to maintain, repair, improve or reconstruct his dwelling house without, in any way, increasing the plinth area thereof. He shall have, also, the right to have electricity supply and supply of pipe water, on the same terms and conditions as are applicable to any owner of a house.

**8. Mundkar not to change the use of the dwelling house.**— A mundkar shall not, without the written consent of the bhatkar, use the dwelling house for a purpose other than the purpose for which it was being used on the appointed date.

**9. Mundkar not to alienate his rights in any manner.**— (1) A mundkar shall not be entitled to alienate, by sale, gift, exchange, mortgage, lease or

in any other manner whatsoever, his interest in the dwelling house to a person other than the member of his family, without the consent of the bhatkar.

(2) An alienation made in contravention of sub-section (1) shall be null and void.

**10. Transfer of property by bhatkar.**— If the bhatkar sells, exchanges, mortgages, or leases, or in any manner transfers, his property where the dwelling house is situated, the rights of the mundkar in the dwelling house shall not, in any way, be affected by such transfer.

**11. Lease holder of a mundkar how to be dealt.**— Where a person not being a member of the family of a mundkar has been in occupation of the whole or a part of the dwelling house on the appointed date, he shall be deemed to be a tenant of the mundkar. In such cases, the provisions of the law governing the relations of landlord and tenant of residential premises, for the time being in force in the area in which the dwelling house is situated, shall apply to such tenant.

**12. Free services by mundkars to be abolished.**— Notwithstanding anything existing in any custom, usage, contract, decree or order of any court or tribunal or in any law in force, all mundkars shall, as from the appointed date, be free to render or not to render to the bhatkar any service as agricultural labourer, domestic servant, watch and ward or in any other capacity and, for every service so rendered the mundkar shall be entitled to be paid by the bhatkar such remuneration as may be mutually agreed upon by them.

**13. Mundkar to pay rent to the bhatkar.**— (1) Every mundkar, if the bhatkar so desires, shall be liable to pay rent determined under sub-sections (3) and (4) to the bhatkar for the occupation of the dwelling house. The rent shall become payable from the day the bhatkar intimates in writing to the mundkar of his intention for the collection of rent:

Provided that, where the mundkar was, on the appointed date, allowed to reside in the dwelling house without any obligation to render any service to the bhatkar, he shall not be liable to pay any rent. The burden of proof, whether the mundkar had or had not the obligation to render any service to the bhatkar, shall lie on the latter.

(2) In case of any dispute regarding the rent to be paid by the mundkar to the bhatkar, the same shall be fixed by the Mamlatdar, under sub-section (3) upon an application made by any of the interested parties.

(3) The rent payable by the mundkar, per year, shall not exceed the rent which will be computed by the Mamlatdar, in the following manner:—

(a) He shall first determine—

(i) the market value as on the 4th February, 1971 of the land occupied by the dwelling house;

(ii) the value of the materials, if any, supplied by the bhatkar, at the time they were supplied;

(iii) the assistance in cash, if any, given by the bhatkar for setting up the dwelling house;

(iv) the payments, if any, made by the mundkar to the bhatkar towards the materials or cash assistance given by the bhatkar.

**Explanation** — The onus of proving, whether any material was supplied or cash assistance was given to the mundkar, shall be on the bhatkar.

(b) The Mamlatdar shall then add up items (i), (ii) and (iii) mentioned in clause (a), deduct therefrom item (iv) and divide the balance by twelve. Two percent of the amount so arrived at or Rs. 50/- in the municipal area or Rs. 30/- in Panchayat area, whichever is less, shall be the rent payable per year by the mundkar.

(4) The rent determined under sub-section (3) shall be ordered to be paid by the Mamlatdar either annually within a month from the expiry of the year for which the rent is due or monthly within seven days from the expiry of the month for which the rent is due, according to the choice of the mundkar.

(5) Notwithstanding the payment of rent under this section and until the dwelling house is purchased by the Mundkar, he shall continue to be a mundkar subject to the provisions of the Act.

**14. Grounds on which a mundkar can be evicted from his dwelling house.** — (1) No mundkar shall be liable to be evicted from his dwelling house, except on any one or more of the following grounds namely: —

(a) that he has sold his interest in the dwelling house to a person other than a member of his family.

(b) that the mundkar has, without the written consent of the bhatkar, changed the use of his dwelling house in contravention of section 8;

(c) that the mundkar or any member of his family residing with him in the dwelling house has caused the destruction of any property of the bhatkar;

(d) that the mundkar or any member of his family residing with him in the dwelling house has been guilty of such acts and conducts which are a nuisance to the bhatkar or any other person residing in the property of the bhatkar or in the neighbourhood.

**Explanation.** — For the purposes of this clause, "nuisance" shall be deemed to include any act which constitutes an offence under the Suppression of Immoral Traffic in Women and Girls Act, Central Act 104 of 1956.

(e) that the mundkar or any member of his family has, whether before or after the appointed date, built, acquired vacant possession of, or been allotted, a residence within the area to which the Act applies and, under the terms of construction, acquisition or allotment, there is no restriction, for all the members of the mundkar residing with him in the dwelling house, from occupying such residence and the residence is, in the opinion of the Mamlatdar, reasonably sufficient for the occupation of all the members of the mundkar's family residing with him in the dwelling house;

(f) that neither the mundkar or any member of his family has been residing in the dwelling house for a continuous period of one year;

(g) that the mundkar has let or assigned his entire dwelling house to another person without the prior consent of the bhatkar;

(h) that the mundkar has refused to shift to another site, as provided under sub-section (6) or sub-section (8) of section 16 or under section 17.

(2) A bhatkar who seeks to evict the mundkar on any of the grounds specified in sub-section (1), shall, within six months from the date the cause of action arose, apply in the prescribed form to the Mamlatdar for an order of eviction against the mundkar.

(3) On receipt of an application under sub-section (2), the Mamlatdar shall after issuing a notice to the mundkar and after holding an inquiry, pass such order thereon as he deems fit:

Provided that, in any case falling under clause (h) of sub-section (1), if the Mamlatdar is satisfied that the mundkar was unable to shift to the new site, for reasons beyond his control, he shall extend the time for the purpose of shifting by such period as he may consider necessary and, thereupon, the application shall be rejected.

(4) The mundkar evicted from his dwelling house under this section shall be entitled to remove any material belonging to him and used in the dwelling house, unless the bhatkar, at any stage, offers to pay to the mundkar the value of such materials as may be fixed by the Mamlatdar or agreed upon between the bhatkar and the mundkar and pays such value in cash within six months from the date the order of eviction becomes final.

**15. Transfer of pending suits or other proceedings for eviction.** — (1) All suits, appeals, proceedings in execution of decree or order and other proceedings for the eviction of a mundkar or a person who has therein claimed to be a mundkar or for the curtailment or for the non-enjoyment of any right mentioned in sub-section (1) of section 6, pending in any court, on the appointed date, shall be transferred to the Mamlatdar within whose jurisdiction the dwelling house, from which the eviction is sought, is situated.

(2) The Mamlatdar, on receipt of a suit, appeal, proceeding in execution or other proceeding under sub-section (1), shall inquire into and first decide the question whether the person to be evicted is a mundkar or not and if his decision is that such person is not a mundkar, the suit, appeal, proceeding in execution or other proceeding shall be re-transferred to the court from which it was transferred to the Mamlatdar.

(3) If the Mamlatdar decides that the person to be evicted is a mundkar, he shall declare the suit, appeal, proceeding in execution or other proceeding, as the case may be, to abate and advise the bhatkar to make a fresh application for eviction of the mundkar, under this Act, if the bhatkar so desires.

**16. Shifting of mundkar from his dwelling house.** — (1) A bhatkar may apply to the Mamlatdar for shifting his mundkar from the dwelling house on the ground that the bhatkar *bona fide* requires the land on which the dwelling house is situated for constructing a residential house for himself or for any other member of his family.

**Explanation.** — In this sub-section, a member of the family means, —

(i) in relation to the bhatkar who is an individual, his spouse, his descendants and their spouses, if any;

(ii) in relation to the bhatkar who is the head of a joint Hindu family, the member of such family;

(iii) in relation to joint owners, other than a joint Hindu family, the members of the family as indicated in clause (i), in relation to each of such joint owners.

(2) The mundkar shall not be shifted from his dwelling house under sub-section (1), unless the bhatkar offers him, in exchange,—

(a) (i) an area of land equal to the land under his dwelling house subject to a minimum of two hundred square metres and a maximum of four hundred square metres, at a distance not exceeding two kilometres from his dwelling house and the Mamlatdar is satisfied that the land is suitable for a dwelling house; and

(ii) half the cost of construction of the new identical dwelling house, in the land offered in exchange, as subsidy. The remaining half of the cost of construction can be borrowed by the mundkar from the Government or such other institutions as may be prescribed. The estimated cost of construction shall be decided by the Mamlatdar after making such inquiry as he deems necessary; or

(b) to construct a similar dwelling house, within a distance of two kilometres, from his dwelling house, the plan of which is approved by the Mamlatdar, taking into consideration the reasonable requirements of accommodation by the mundkar and his family residing in the dwelling house; or

(c) an accommodation in any existing building, in the property of the bhatkar or at any place within a distance of two kilometres, which the Mamlatdar considers, having regard to the shortage of residential accommodation in the locality, to be adequate for the mundkar and his family members residing with him in the dwelling house; or

(d) cash compensation as may be mutually agreed between the bhatkar and the mundkar for shifting from the dwelling house.

(3) On receipt of an application under sub-section (1), the Mamlatdar shall hold an inquiry in the prescribed manner and satisfy himself that the ground specified in that sub-section exists. If he is not so satisfied he shall reject the application.

(4) If the Mamlatdar is so satisfied, he shall further satisfy himself, after making such inquiry as he deems necessary, whether the bhatkar has made an offer as provided in sub-section (2) to the mundkar and whether the mundkar is prepared to accept such offer.

(5) If the bhatkar has not made or is not prepared to make an offer as provided in sub-section (2), the Mamlatdar shall reject the application.

(6) If the bhatkar has made or is prepared to make an offer as provided in sub-section (2) and the mundkar does not accept it within thirty days from the date the Mamlatdar intimates the offer to the mundkar in writing, the Mamlatdar shall order the mundkar to be evicted from the dwelling house, within six months from the date of such order.

(7) If the offer made by the bhatkar is accepted by the mundkar within the period specified in sub-

-section (6), the Mamlatdar shall order the mundkar to shift to the new site within such reasonable period as the Mamlatdar may fix, taking into consideration the time required for constructing the house on the new site, where such construction is required to be made, or, as the case may be, for the completion of the construction or arrangement of an alternative accommodation.

(8) If the mundkar does not shift from the dwelling house within the period fixed under sub-section (7), the Mamlatdar shall, after being satisfied, by holding such inquiry as he deems necessary, that the mundkar has not shifted to the new site, or as the case may be, to the alternative accommodation in spite of the new dwelling house or the alternative accommodation being ready for occupation, order the mundkar to be evicted from the dwelling house.

(9) If the shifting is done in pursuance of clause (a) or clause (b) of sub-section (2), the mundkar shall be entitled to the full ownership and possession of the land with the dwelling house to which he is shifted and also to the registration of such land in his name, and thereupon, as soon as he shifts to his new dwelling house, he shall cease to be a mundkar.

(10) (a) For the purposes of clause (d) of sub-section (2) the Mamlatdar shall call both the bhatkar and the mundkar for the settlement of the compensation by mutual agreement and for fixation of the date on which the mundkar should hand over the dwelling house to the bhatkar upon the payment of the agreed compensation in cash. Such settlement, if arrived at, shall forthwith be reduced to writing by the Mamlatdar in the form of an agreement, recording the amount of compensation payable by the bhatkar, the due date and such other particulars as may be necessary. Such agreements shall be read out and explained by the Mamlatdar to the parties concerned and shall be signed or otherwise authenticated by the Mamlatdar and the parties.

(b) In case there is no agreement between the bhatkar and the mundkar, the application of the bhatkar shall be rejected by the Mamlatdar.

(11) An Agreement thus made under sub-section (10), shall, after the date of its making, be registered under the Registration Act, 1908, by the Mamlatdar Central Act in such manner as may be prescribed 16 of 1908. and it shall then take effect as if it were a decree of a civil Court.

**17. Allotment of land by Government in certain cases.**—(1) When, in certain cases, after holding such inquiry as may be prescribed and for reasons to be recorded in writing, if the Mamlatdar reaches the conclusion that the best alternative to solve the dispute between the bhatkar and the mundkar is to resettle the mundkar in some other land, he shall, with the prior approval of the Government and in prescribed manner, proceed further to find out if such land is available at a distance not exceeding two kilometres from the present dwelling house of the mundkar.

(2) (a) If the land referred to in sub-section (1) exists, the Mamlatdar shall prepare a report in the prescribed manner and propose to the Government the assignment of such land to such mundkar intended to be resettled, at a nominal value as may be prescribed. At the same time, he shall issue a notice to the bhatkar and mundkar, informing them of his



intention to resettle the mundkar in some other place.

(b) In the case referred to in clause (a), the bhatkar shall pay to the Government the cost of such land. The bhatkar shall, also, pay to mundkar, as subsidy, half the cost of construction of a new similar dwelling house on the plot to be allotted to him and the remaining amount shall be borrowed by the mundkar from the Government or such other institutions as may be prescribed.

(c) The estimated cost of construction shall be decided by the Collector after making such inquiry as he deems necessary.

(3) The report prepared by the Mamlatdar under sub-section (2) shall be submitted to the prior approval of the Senior Town Planner and the area of the land referred to in sub-section (1) shall not exceed such extent as may be prescribed in this behalf keeping in view the requirements of rural and town planning.

(4) (a) If the land proposed to be allotted under sub-section (2) is a private land, the Government may notify its intention to acquire the land for rehabilitating the displaced mundkar. On the issue of such notification, the provisions of Land Acquisition Act, 1894, shall apply as if the notification was a notification issued under section 4 of the said Act. Central Act 1 of 1894

(b) If the land proposed to be allotted under sub-section (2) is Government land or Comunidade's land, then, notwithstanding anything contained in any law for the time being in force, the grant shall be made only with the approval of the Government on a proposal submitted by the Mamlatdar in the prescribed manner.

(5) Once the land is directed to be acquired under section 7 of the Land Acquisition Act, 1894, or the approval of the Government to grant the proposed land is communicated to the Mamlatdar, as the case may be, he shall forthwith cause the notice to be given to the bhatkar to deposit within a fixed period and in the prescribed manner the value of the plot as well as the subsidy to be granted to the mundkar. A notice shall also be served by the Mamlatdar on the mundkar informing about his decision to shift him to another site granted by the Government and shall give him such reasonable period as he may fix, taking into consideration the time required for the construction of the dwelling house in the new site where such construction is to be made, for the purpose of such shifting. The mundkar shall also be directed to apply for the loan if required by him for purpose of construction, under section 21. Central Act 1 of 1894

(6) After the land is acquired or is granted by the Government, the Mamlatdar shall give the possession of the same to the concerned mundkar and thereupon the mundkar shall be entitled to the ownership and possession of the land to which he is directed to shift and also the registration of the land in his name.

(7) If the mundkar does not shift from the dwelling house within the period fixed under sub-section

(5), the Mamlatdar shall, after being satisfied, by holding such inquiry as he deems necessary that the mundkar has not shifted to the new site inspite of the new dwelling house being ready for occupation, order the mundkar to be evicted from the dwelling house.

(8) A mundkar who is resettled under the provisions of this section shall cease to hold the title of mundkar as soon as he shifts to his new dwelling house.

**18. Surrender by mundkar.**— (1) Any mundkar may surrender his right over the dwelling house if the following conditions are satisfied:—

(i) it is made by the mundkar in writing and is admitted by him before the Mamlatdar;

(ii) it is made voluntarily and in good faith to the satisfaction of the Mamlatdar;

(iii) it is approved by the Mamlatdar.

(2) Where the Mamlatdar is of the opinion that the conditions mentioned in sub-section (1) are not satisfied, he may, after giving a reasonable opportunity to the bhatkar to show cause against taking action under this sub-section, and after holding such inquiry as he may deem fit, by order, refuse to approve the surrender.

**19. Right of mundkar to purchase the dwelling house.**— (1) Notwithstanding anything to the contrary contained in any law for the time being in force, a mundkar shall, subject to the provisions of this section, have the right to purchase the dwelling house occupied by him.

(2) The maximum extent of land around or appurtenant to the dwelling house which a mundkar is entitled to purchase under this section shall be as indicated under sub-clause (ii) of clause (g) of section 2:

Provided that, where the land available for purchase is less than the extent so indicated the mundkar shall be entitled to purchase only the land available for purchase.

(3) The purchase price payable by the mundkar for his dwelling house shall be twenty-five per cent of the market value of the dwelling house purchased and the improvements thereon, other than the improvement, if any, belonging to the mundkar:

Provided that, when the house, hut or any structure with its materials belong, wholly or partly, to the mundkar, the corresponding value shall be deducted from the market value and, in such case, the purchase price shall be twenty-five per cent of the balance left after deducting the corresponding value from the market value.

(4) The purchase price payable under sub-section (3) in respect of the dwelling house shall be paid in ten equal annual instalments:

Provided that, it shall be open to the mundkar to pay the entire purchase price in a lumpsum, in which case, the amount payable shall be only ninety per cent of the purchase price.

(5) The market value of the dwelling house, shall be decided by the Mamlatdar, after making such inquiry as he deems necessary and in the prescribed manner.

## 20. Procedure for purchase under section 19. —

(1) A mundkar willing to purchase the dwelling house occupied by him shall apply to the Mamlatdar within whose jurisdiction the dwelling house is situated.

(2) An application under sub-section (1) shall be in such form and shall contain such particulars as may be prescribed.

(3) The Mamlatdar shall, after giving notice to the bhatkar of the land in which the dwelling house is situated and other person interested in the land and after such inquiry as may be prescribed, pass such orders on the application as he deems fit.

(4) An order under sub-section (3), allowing an application, shall specify —

(i) the extent and measurement of land corresponding to the dwelling house which the mundkar is entitled to purchase;

(ii) the purchase price payable by the mundkar and the mode of payment;

(iii) the amounts due to the bhatkar or other persons interested in the land;

(iv) the value of encumbrances subsisting or claims for maintenance or alimony charged on the land allowed to be purchased by the mundkar;

(v) the amount payable to the holder of the encumbrance or the person entitled to the maintenance or alimony and the order of priority in which amount is payable;

(vi) such other particulars as may be prescribed.

(5) Where the right, title and interest of the person in possession of the land in which the dwelling house is situated or any other person interested in the land form part of the security for any encumbrance or charge for maintenance or alimony the Mamlatdar shall, for the purpose of determining the value of the encumbrance or charge for the maintenance or alimony relating to the portion in respect of which purchase is allowed, apportion the entire encumbrance or charge for the maintenance or alimony between the land in which the dwelling house is situated and the portion allowed to be purchased, in proportion to the value of the two portions.

(6) The purchase price payable by the mundkar shall be distributed according to the following provisions: —

(a) Where the right, title and interest of the bhatkar is subject to any encumbrance or charge for maintenance or alimony, the purchase price shall be first paid to such person interested in such encumbrance or charge for maintenance or alimony, in the order of priority fixed under clause (v) of sub-section (4) and the balance of the amount, if any, shall be paid to the bhatkar.

(b) If the total amount of such encumbrance, maintenance or alimony is more than the compensation payable to the bhatkar, the whole amount shall be reserved for payment to the holder of the encumbrance or the person entitled to the maintenance or alimony and no amount shall be paid to the bhatkar. After this is done, the dwelling house of the mundkar shall be declared free from any encumbrance or charge for maintenance or alimony.

(c) Where a person entitled to the purchase price or the value of the encumbrance, maintenance

or alimony dies before it is paid to him it shall be paid to his legal representatives.

(d) Where the person entitled to receive the purchase price or the value of the encumbrance is a private Trust or endowment or a minor or a person suffering from legal disability or a limited owner, the purchase price or the value of the encumbrance may, notwithstanding anything contained in any law for the time being in force, but subject to any general directions that the Government may give, be deposited for and on behalf of such person with such authority or bank as may be prescribed.

(e) Where before any court or other authority any suit or other legal proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the purchase price or the amount of encumbrance or maintenance or alimony payable under this section, the court or other authority may require the Mamlatdar to place at its disposal the amount so payable and thereupon the same shall be disposed of in accordance with the orders of such court or other authority.

(7) When an application under sub-section (1) has been allowed and the purchase price determined by an order of the Mamlatdar under sub-section (3), the mundkar shall deposit with the Mamlatdar, —

(i) where the purchase price is proposed to be paid in a lumpsum, the entire amount due, within one year; or

(ii) where the purchase price is proposed to be paid in instalments, the first instalment thereof, within six months from the date on which the order of the Mamlatdar under sub-section (3) has become final. The second and subsequent instalment shall be deposited with the Mamlatdar with intervals of one year and in the manner prescribed:

Provided that the Mamlatdar may, on application by the mundkar, before the expiry of one year or six months, as the case may be, extend the period for making such deposit;

Provided further that the Mamlatdar may, on application by the mundkar, before the expiry of one year or six months, as the case may be, extend the period for making such deposit, so however that the period so extended shall not exceed three months.

(8) After the order of the Mamlatdar under sub-section (3) has become final and on the deposit of the last instalment of the purchase price or on the deposit of the purchase price in a lumpsum, the Collector shall issue a certificate of purchase in such form and containing such particulars as may be prescribed, and thereupon the right, title and interest of the bhatkar shall, in respect of the dwelling house allowed to be purchased, vest in the mundkar free from all encumbrances or charges.

(9) Where a mundkar fails to deposit the first instalment or the lumpsum, as the case may be, on or before the due date, the order of the Mamlatdar under sub-section (3) shall stand cancelled and thereupon the mundkar shall not be entitled to purchase the dwelling house.

(10) (a) If the second and subsequent instalments of the purchase price are not deposited on the due dates, the amount of such instalment shall bear



interest at the rate of six percent per annum from that date till the date of deposit of the instalment.

(b) If any such instalment remains unpaid for a period more than two years, Mamlatdar, on the application of the bhatkar, may, for reasons to be recorded in writing, pass an order cancelling the order passed under sub-section (3) and, thereupon the mundkar shall not be entitled to purchase the dwelling house and, all the amounts, if any, deposited by the mundkar with the Mamlatdar, whether disbursed or not to the bhatkar, shall be refunded to the mundkar.

**21. Grant of loan by Government to a mundkar regarding his dwelling house.**—(1) The Government may, subject to due appropriation being made in this behalf, grant, on such terms and conditions as may be prescribed, a loan to a mundkar for the purchase of his dwelling house or for the construction of a new one on an alternative site given to him under sections 16, 17 or 19.

(2) The Government may, when it considers necessary so to do, also arrange the required loan assistance to a mundkar from the Life Insurance Corporation or other institution advancing loans for housing purposes.

**22. Bar to attachment, seizure or sale by process of court.**—The interest of a mundkar in his dwelling house shall not be liable to be attached, seized or sold in execution of a decree or order of a Civil Court except if such decree or order is issued in favour of the mortgagee to whom such interest was mortgaged and for the repayment of the debt to which the mortgage relates.

### CHAPTER III

Power, functions, appeals, etc. and maintenance of registers

**23. Commencement of proceedings.**—Save as otherwise expressly provided by or under this Act, all inquiries and original proceedings before the Mamlatdar shall be commenced by an application which shall contain the following particulars:—

(a) the name, age, profession and place of residence of the applicant and the opposite parties;

(b) a short description and situation of the dwelling house in respect of which the application is being made;

(c) the circumstances out of which the cause of action arose;

(d) a list of the applicant's documents, if any, and of his witnesses and whether such witnesses are to be summoned to attend or whether the applicant will produce them on the day of the hearing; and

(e) such other particulars as may be prescribed.

**24. Procedure.**—(1) Subject to the other provisions of this Act in this behalf, the procedure to be followed by the Mamlatdar, the Collector, the Administrative Tribunal or the Government in all inquiries, appeals, applications for revision and other proceedings under this Act shall be such as may be prescribed.

(2) Every decision or order passed under this Act shall be recorded in the form of an order which shall state the reasons therefor.

(3) All inquiries and proceedings before the Mamlatdar, the Collector, the Administrative Tribunal or the Government shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Central Act  
45 of 1860

**25. Execution of order for payment of money or restoring possession.**—(1) Any sum, the payment of which has been directed by an order of the Mamlatdar, the Collector, the Administrative Tribunal or the Government, including an order awarding cost, shall be recoverable from the person ordered to pay the same as an arrear of land revenue.

(2) An order of the Mamlatdar evicting or shifting the mundkar from his dwelling house or restoring to him the possession or use of any land or dwelling house or the enjoyment of the customary easement or supply of electricity or water shall be executed in such manner as may be prescribed and by using such force as may be necessary.

(3) An order or decision of the Mamlatdar in execution proceedings shall, subject to appeal or revision, if any, be final.

**26. Power to transfer proceedings.**—The Collector may, after due notice to the parties, by order in writing, transfer any proceedings under this Act pending before a Mamlatdar, from such Mamlatdar to any other Mamlatdar and the Mamlatdar to whom the proceedings are so transferred shall thereupon exercise jurisdiction under this Act in such proceedings.

**27. Appeal.**—From every original order, other than an interim order, passed by the Mamlatdar or the Collector under this Act, an appeal shall lie to the Collector or the Administrative Tribunal respectively, and the order of the Collector or the Administrative Tribunal, as the case may be, shall, subject to revision if any, under section 28 of this Act, be final.

**28. Revision.**—(1) From every order, other than an interim order, passed in appeal under section 27 or under sub-section (2), a revision shall lie to the Administrative Tribunal or the Government, respectively and the order of the Administrative Tribunal or the Government, as the case may be, on such revision shall be final.

(2) Save as otherwise expressly provided under this Act, where no appeal lies under this Act, the Collector may, on his own motion or on an application made by an aggrieved person, or on a reference made in this behalf by the Government, at any time, call for the record of any inquiry or proceedings of any Mamlatdar for the purpose of satisfying himself as to the legality or propriety of any order passed by the Mamlatdar and as to the regularity of the proceedings and pass such order thereon as he deems fit:

Provided that no such record shall be called for, after the expiry of six months from the date of such order and no order of such Mamlatdar shall be modified, annulled or reversed unless reasonable opportunity has been given to the interested parties to appear and be heard.

**29. Extent of powers in appeal or revision.** — (1) The Collector or the Administrative Tribunal or the Government in appeal or in revision, may confirm, modify or rescind the order in appeal or revision, or may pass such other order as may be legal and just in accordance with the provisions of this Act.

(2) The orders passed in appeal or revision shall be executed in the manner provided for the execution of the orders of the Mamlatdar under this Act.

**30. Powers of Civil Courts to be exercised in conduct of inquiries and proceedings under this Act.** — The Mamlatdar, the Collector, the Administrative Tribunal or the Government shall exercise in all inquiries, proceedings, appeals or revisions, the powers as are exercised by the concerned trial court, appellate court or a court exercising revisional jurisdiction, under the Code of Civil Procedure, 1908.

Central Act  
5 of 1908

**31. Limitation and court fees.** — (1) Every appeal or application for revision under this Act shall be filed within a period of sixty-days from the date of the communication of the order of the Mamlatdar, the Collector or the Administrative Tribunal, as the case may be, and the provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963, shall apply to the filing of such appeal or application for revision.

Central Act  
36 of 1963

(2) Notwithstanding anything contained in the Court-fees Act, 1870, every application, appeal, or revision made under this Act to the Mamlatdar, the Collector, the Administrative Tribunal or the Government shall bear a court fee stamp of such value as may be prescribed.

Central Act  
7 of 1870

**32. Register of mundkars.** — (1) In respect of every village, the Government shall cause a register of mundkars to be prepared and maintained in the prescribed manner.

(2) The register shall contain the following particulars, namely: —

- (a) the particulars and description of the dwelling house;
- (b) the location of the dwelling house;
- (c) the name and address of the bhatkar;
- (d) the name and address of the mundkar;
- (e) the nature and extent of service, rendered to the bhatkar or the amount of rent if any paid;
- (f) the rights referred to under section 6;
- (g) such other particulars as may be prescribed.

(3) The register shall be prepared and maintained by the Mamlatdar after such inquiry as may be prescribed.

(4) The Mamlatdar shall, before the preparation of the register, publish a notice, in every revenue village inviting applications from the mundkars for registration and to be presented before such date as may be specified in the notice or such further time as may be allowed by him;

Provided that if, at any time after the publication of the notice, it is found that a mundkar has failed to apply for registering his name, the talathi within whose jurisdiction the dwelling house is situated, may, after making such inquiry as he considers necessary, propose to the Mamlatdar to enter the name of such mundkar in the concerned register of mundkars and the Mamlatdar shall dispose of the same as provided under sub-section (5).

(5) On receipt of an application within the time specified in the notice or within such further time as may be allowed by him, the Mamlatdar shall, after such inquiry as may be prescribed, register the mundkar or reject the application.

(6) Any person aggrieved by the registration of a mundkar or by the refusal to register a person claiming to be a mundkar may, within sixty days from the date of registration or refusal, as the case may be, file an appeal to the Collector.

(7) On receipt of an appeal under sub-section (6), the Collector may call for the records of any proceeding under sub-section (5) and may make such inquiry or cause such inquiry to be made and may pass such orders thereon as he deems fit:

Provided that no order prejudicial to any person shall be passed without giving him a reasonable opportunity of being heard.

**33. Presumptive value of the record.** — An entry made in the register of mundkars prepared in accordance with the provisions of this Act and the rules made thereunder shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted thereafter.

#### CHAPTER IV

##### Miscellaneous

**34. Protection of action taken under the Act and bar of jurisdiction of Courts.** — (1) No suit, prosecution or other legal proceeding shall lie against any officer for anything in good faith, done or intended to be done under this Act.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined, by the Mamlatdar or the Collector or the Government or the Administrative Tribunal and no order passed by such authority under this Act shall be questioned in any Civil or Criminal Court.

**35. Suits involving issues required to be decided under this Act.** — (1) If any suit instituted in any Civil Court involve any issues which are required to be settled, decided or dealt with by the Mamlatdar or the Collector under this Act the Civil Court shall stay the suit and refer such issues to the Mamlatdar or the Collector, as the case may be, for determination.

(2) On receipt of such reference from the Civil Court the Mamlatdar or the Collector shall deal with and decide such issues in accordance with the provisions of this Act and shall communicate its decisions to the Civil Court and such court shall thereupon decide the suit in accordance with the procedure applicable thereof.

**36. Bar on appearance by pleaders.** — Notwithstanding anything contained in this Act or any law for the time being in force, no pleader shall be entitled to appear on behalf of any party in any proceedings under this Act before the Mamlatdar or the Collector:

Provided that the Mamlatdar or the Collector may, in the interest of justice and for reasons to be recorded in writing, allow the parties to be represented at their own cost by a pleader:

Provided further that the fees for the pleader shall not be allowed as part of the costs in any such proceedings:

Provided also that if any officer of the Government is appointed or declared by a competent court or is authorised under any law for the time being in force as a guardian, administrator or manager of the property of a person who is under a legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorised by him in writing in this behalf in any proceedings before the Mamlatdar or the Collector.

*Explanation.* — For the purposes of this section, the term “pleader” includes an advocate, attorney, vakil or any other legal practitioner.

**37. Penalty.** — (1) Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, on conviction by a Magistrate, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, Central Act 1898, every offence under this Act shall be cognizable and such offence may, with the permission of the court, be compoundable. 5 of 1898

**38. Offences by companies.** — (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.* — For the purposes of this section—

(a) “company”, means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm means a partner in the firm.

**39. Power to give directions.** — (1) The Government shall have power to issue directions or orders to the Mamlatdar or the Collector to give effect to the provisions of this Act and the rules made thereunder.

(2) Any such direction shall be published in the Official Gazette and shall be laid as soon as may be, after it is issued before the Legislative Assembly of Goa, Daman and Diu while it is in session for a period of thirty days.

**40. Delegation of powers.** — The Government may, by notification in the Official Gazette, delegate all or any of the powers and duties conferred upon itself or upon any officer or authority under this Act, to any other authority, body or persons, subject to such conditions and restrictions, if any, as may be specified in the notification.

**41. Act to over-ride other laws, etc.** — The provisions of this Act shall have effect notwithstanding anything in any other law or any custom or usage or decree or order of a court, or any agreement or contract, express or implied, inconsistent with the provisions of this Act.

**42. Power to remove difficulties.** — (1) If any difficulty arises in giving effect to the provisions of this Act the Government may, by order, as occasion may require, make such provisions not inconsistent with the provisions of this Act as appear to it necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of three years from the appointed date.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before the Legislative Assembly of Goa, Daman and Diu while it is in session for a period of thirty days.

**43. Power to make rules.** — (1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly of Goa, Daman and Diu while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or the Legislative Assembly agrees that the rule should not be made and notifies such decision in the Official Gazette, the rule shall, from the date of such notification, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

44. **Repeal and saving.**—On and from the appointed date —

(a) "Diploma Legislative No. 1952 of 26th November, 1959", as in force on that date shall stand repealed and any proceedings pending thereunder before the "Mamlatdar" or the "Tribunal Administrative" or any other authority shall abate,

(b) section 17 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 shall stand repealed, 7 of 1964.

(c) the Goa, Daman and Diu (Protection from Eviction of Mundkars, Agricultural Labourers and Village Artisans) Act, 1971, shall stand repealed and the provisions of sections 6 and 24 of the General Clauses Act, 1897, as applied to the Union territory of Goa, Daman and Diu by the Goa, Daman and Diu General Clauses Act, 1965 shall apply to such repeal. 12 of 1971. Central Act 10 of 1897. 7 of 1965.

#### Statement of objects and reasons

There exists in the district of Goa of the Union territory of Goa, Daman and Diu a peculiar system, named Mundkarism which is centuries old.

In the context of this system, there are two parties, locally known as bhatkar and mundkar, whose relationship is to be regulated, keeping in view the modern socio-economic concepts leading to provide to each and every individual a decent place in this world. The bhatkar is the owner of land (generally coconut gardens), who in English can be termed as landlord or proprietor. The mundkar is the person who lives in a dwelling house constructed on the land of bhatkar with the consent of the latter and with a view to render some service such as, watch and ward over the land, supply of his or his family service to the bhatkar, when required by the latter, as agricultural labourers and even, some times without any obligation to render any service but allowed to reside on the land as a gesture of goodwill, though with the characteristic of subservience which is inherent in any one who is allowed to occupy his land as a matter of grace.

It seems that, it was in the second half of the eighteenth century, the need for regulating the conflicts arising between the bhatkars and mundkars was felt and this led to the enactment of the first legislation on the system of Mundkarism, in the form of Decree dated 24-8-1901.

Subsequently, in the year 1959, the Government, having felt "the need for revision of the above decree in force, in order to secure the reciprocal rights and duties in the new basis adjusted to the new requirements and the conditions", (as it is described in the preamble to the Diploma) enacted the Legislative Diploma No. 1952 dated 26-11-51, which repealed the original decree dated 24-8-1901.

These two pieces of legislation show clearly the need felt, in the course of time, to streamline the relationship between bhatkars and mundkars. Soon after the winds of democracy and of socio-economic equality blew, in the Union territory of Goa, Daman and Diu on 19-12-1961, a further need was felt to review the legislative Diploma No. 1952 in force to

bring about an equitable social justice in the Society. In the year 1971, a temporary enactment was enacted to provide for the protection from eviction of mundkars, agricultural labourers and village artisans.

It is under this context that the present Bill has been prepared in a more just, humane and equitable manner.

The mundkar system, though centuries old, has undergone successive changes, not only because the successors of the original mundkars have raised their standard of life through education, change in the occupation etc. and as such they do not render at present any service, though continuing to reside in the dwelling house, but also because, in some cases, the bhatkars started to consent, to reside on the land, without any duty to render any service to them. It is taking in view these different categories of persons that the term "Mundkar" has been defined in this Bill in such a way to cover all possible cases deserving equal protection.

Respective duties and responsibilities of the bhatkar and mundkar have been laid down and provision has been made to abolish free services rendered by mundkars and to substitute the same into remunerated ones.

While the right of the mundkar against arbitrary eviction has been safeguarded, the bhatkar has also been given the concession to secure the shifting of his mundkar to another site, in case the property held by the latter is required by the bhatkar for building purposes for himself or any member of his family or for locating the dwelling house of the mundkar in a convenient place, provided the bhatkar gives an alternative site of his own, of the same size, within 5 kms. of the old dwelling house to the mundkar, for construction of a new dwelling house.

A right to purchase the dwelling house by the mundkar has also been provided in order to allow the mundkar to have complete ownership over the dwelling house he occupies and to be free from any dependence from the bhatkar. Provision has been made to the effect that the mundkar is allowed to pay the purchase price of the dwelling house in a lump-sum or in instalments and even to raise loans from the Government and other institutions to purchase the dwelling house.

It is estimated that about 40,000 mundkar families will be benefitted with the present legislation and their relationship with the concerned bhatkars will be streamlined.

Clause 1—This clause deals with short title, extent and commencement of the Act. The Government has been empowered to bring the Act in force on such date as it may appoint. The Act extends only to the district of Goa.

Clause 2—Deals with definitions. It defines various terms used in the Act.

#### CHAPTER II

Clause 3—This clause stipulates that the rights of a mundkar in a dwelling house shall be heritable.

Clause 4—This clause prohibits the bhatkar to evict their mundkars from their dwelling houses except in accordance with the provisions of the Bill.

Sub-clause (1) has an over-riding effect on all customs, contract, decree or order of any court as also the existing laws.

Further, this clause has a retrospective effect. Any mundkar who was in occupation of a dwelling house situated on a land belonging to a bhatkar on 4-2-1971 and who has been, before the date of coming into force of this Act, evicted from his dwelling house shall be entitled to restoration of possession if the conditions laid down in sub-clause (2) are satisfied.

Further, the sub-clause (3) enables a mundkar who was in possession of a dwelling house on the date of coming into force of this Act, but has been evicted thereafter in contravention of the provisions of this Act, to make an application to the Mamlatdar for restoration of possession.

Sub-Clause (4) deals with the procedure of disposal of such applications by Mamlatdar and also stipulates that in case of wrongful eviction the bhatkar shall pay to the mundkar such amount as determined under clause (7) as compensation.

Sub-Clause (5) stipulates that the Mamlatdar should hear the party or parties against whom any order he proposes to pass under sub-clause (4), before passing such an order. This is in accordance with the rules of natural justice.

Sub-Clause (6) deals with condonation of delay in filing applications under sub-clause (2) and (3) for restoration of possession by mundkars.

Sub-clause (7) stipulates that wrongful eviction of a mundkar or interfering with his rights of easement in any manner, shall be an offence. There is punishment for such an offence therein. This clause will stop the tendency on the part of bhatkars or any other person, to interfere with the rights of a mundkar.

Sub-clause (8) stipulates that whoever attempts to contravene or abets the contravention of the provisions of sub-clause (1) of clause 4 or sub-clause (1) of clause 6 shall be deemed to be the principal offenders themselves.

Clause (9) deals with cases of resistance of orders of Mamlatdar for restoration of possession to mundkar.

Clause 5 — This Clause deals with threatened dispossession. If a mundkar is threatened with dispossession by his bhatkar or any other person he can apply to the Mamlatdar and obtain suitable reliefs, like injunctions etc.

Clause 6 — This clause deals with interference in customary easements like supply of water, electricity etc. of a mundkar. The mundkar has been given a right to apply to the Mamlatdar and obtain an injunction even in cases of threatened interference with such customary easements.

Clause 7 — This clause deals with the right of a mundkar to have his dwelling house repaired etc. like any other owner of a dwelling house.

Clause 8 — This imposes a restriction on the mundkar to use the dwelling house without the consent of the bhatkar, for a purpose other than the one for

which such dwelling house was used on the date of coming into force of this Act.

Clause 9 — This clause prohibits the mundkar to alienate his rights in the dwelling house.

It further stipulates that any alienation made without the consent of the bhatkar shall be void.

Clause 10 — It stipulates that the transfer of ownership of the land on which a mundkar's dwelling house is situated, by a bhatkar will no way affect the rights of the mundkar in such dwelling house.

Clause 11 — Under this clause, if a person who is not a member of the family of a mundkar is in occupation of the dwelling house on the appointed date such a person, is being treated as a tenant of the mundkar.

Clause 12 — This clause is an important clause. Under this clause a mundkar is given the freedom of rendering or not rendering services to the bhatkar and also it stipulates that if the mundkar chooses to render service, he shall be paid remuneration for his services by the bhatkar.

Clause 13 — Under this clause, a mundkar is liable to pay rent to the bhatkar, if the bhatkar so desires, in cases where the mundkar was liable to render some services and on and from the appointed date he chooses not to render such free services.

Clause 14 — This clause enumerates the grounds on which a mundkar can be evicted from his dwelling house.

Sub-Clause (2) prescribes a limitation of six months from the date of the cause of action arose within which the bhatkar should take action for eviction of his mundkar.

Sub-clause (3) provides for procedure to be followed by the Mamlatdar while hearing the applications for evictions.

Clause 15 — This clause provides for transfers of all proceedings pertaining to mundkar pending before courts of law to Mamlatdars.

Clause 16 — This clause provides for shifting of a mundkar from his dwelling house to a new place. Such shifting has been permitted only in cases where the bhatkar bonafide requires the land on which the dwelling house is situated for himself or for any other member of his family.

This clause itself stipulates the duties of the bhatkar in cases of such shifting. The bhatkar, in cases of such shifting, will have to provide the mundkar an alternative site subject to a minimum of 200 sq. metres and should be within a distance of 2 Km. from the dwelling house. Further, the bhatkar will have to pay half the cost of construction of the new dwelling house.

Under the provisions of the clause bhatkar who proposes to shift his mundkar will have to apply to the Mamlatdar. The clause also lays down the procedure to be followed by the Mamlatdar.

Clause 17 — This clause provides for allotment of land by Government to a mundkar for his resettlement. The clause provides in detail the procedure to be followed by the Mamlatdar if the land so proposed to be allotted to the mundkar is a private land.

Clause 18 — This clause provides for surrender by a mundkar of his rights over the dwelling house. The conditions subject to which such surrender can be made have been stipulated in the clause.

Clause 19 — This clause enables the mundkar to purchase the dwelling house in which he is residing.

The purchase price payable by a mundkar has been fixed at 25 per cent of the market value of the dwelling house.

Clause 20 — This clause prescribes the procedure to be followed in cases of purchase of a dwelling house by a mundkar. The mundkar who desires to purchase the dwelling house has been given the opportunity of paying the purchase price in instalments.

Clause 21 — This clause provides that the Government may grant loans to a mundkar who is desirous of purchasing the dwelling house.

Clause 22 — This clause stipulates that the interests of a mundkar in his dwelling house shall not be liable to be attached, seized or sold in execution of any decree or order of a civil court.

### CHAPTER III

Clauses 23 & 24 — These clauses provide for the procedure to be followed in the matter of any proceedings under the Act.

Clause 25 — This clause only deals with the mode of recovery of monies ordered to be paid by the competent authorities under any of the provisions of the Act.

Clause 26 — Provides for transfer of proceedings from one Mamlatdar to another.

Clauses 27 & 28 — These clauses deal with appeals and revisions of orders passed by authorities under the provisions of the Act.

Clause 30 — This clause lays down that the authorities competent to hear the applications, appeals and revisions under this Act shall have all the powers available to a Civil court under C.P.C. 1908.

Clause 31 — Provides for limitation and court fees.

Clauses 32 & 33 — These clauses provide for maintenance of registers of mundkars, village-wise and also stipulates the details that should be entered in such registers.

### CHAPTER IV

Clause 34 — Under this clause the jurisdiction of civil courts to entertain suits in respect of matters covered by the Act, is prohibited.

Clause 35 — This clause deals with suits instituted before courts wherein matters connected with mundkar-bhatkar relationship are involved.

Clause 36 — This clause prohibits the appearance of pleader in any proceedings under the Act, before the Mamlatdar or the Collector.

Clauses 37 & 38 — Provides for penalties for contravention of provisions of the Act.

Clause 40 — This clause provides for delegation of powers and duties by the Government.

Clause 41 — This clause stipulates that the provision of Act shall have over-riding effect over all laws, customs, usage etc. which are in force on the date of coming into force of the Act.

Clause 42 — This clause enables the Government to issue suitable administrative orders from time to time, but not after three years from the time the Act comes into force, to remove difficulties experienced while administering the Act. All such orders passed will be laid before the Legislative Assembly.

Clause 43 — Empowers the Government to frame rules with respect to procedural matters.

Clause 44 — This clause repeals the Portuguese Diploma Legislative No. 1952 of 26th November 1959, Section 17 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 and the Goa, Daman and Diu (Protection from Eviction of Mundkars, Agricultural Labourers and Village Artisans) Act, 1971.

### Financial Memorandum

There is no other commitment to the Government, except to advance loans to build new dwelling house in new sites where the mundkars are shifted.

Considering that only one sixth of the mundkars may be shifted to the new sites, in which case only one fourth of the value of the dwelling house may have to be raised as loan, and, that, about fifty per cent of the mundkars may require to raise loans from the Government to purchase the dwelling house, an amount of about four crores may be required to be provided by the Government for such grant of loans.

### Delegated Legislation Memorandum

Clause 43 of the Bill gives power to the Government to make rules for carrying out all or any purposes of this Act. These powers are of a normal character providing only for the details of procedure for facilitating the working of this Act.

Panaji,  
9th April, 1973.

PRATAPSING RANE  
Minister (Revenue)

Assembly Hall,  
Panaji,  
10th April, 1973.

B. M. MASURKAR  
Secretary to the Legislative  
Assembly of Goa, Daman and Diu



LA/A/7/927/73

Financial memorandum

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 11th April, 1973 is hereby published for general information in pursuance of the provisions of Rule 127 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu (Protection from Eviction of Mundcars, Agricultural Labourers and Village Artisans) (Amendment) Bill, 1973

(Bill No. 11 of 1973)

A  
BILL

*to extend the period of enforceability of the Goa, Daman and Diu (Protection from Eviction of Mundcars, Agricultural Labourers and Village Artisans) Act, 1971.*

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-fourth year of Republic of India as follows:—

1. *Short title and Commencement:*—

(1) This Act may be called the Goa, Daman and Diu (Protection from Eviction of Mundcars, Agricultural Labourers and Village Artisans) (Amendment) Act, 1973.

(2) It shall come into force at once.

2. *Amendment of Section 1:*—

In sub-section (4) of Section 1 of the Goa, Daman and Diu (Protection from Eviction of Mundcars, Agricultural Labourers and Village Artisans) Act, 1971, 12 of 1971. for the words "two years" the words "four years" shall be substituted.

Statement of objects and reasons

In the year 1971, a temporary enactment entitled the Goa, Daman and Diu (Protection from Eviction of Mundcars, Agricultural Labourers and Village Artisans) Act, 1971 was enacted to provide for the protection from eviction of mundcars, agricultural labourers and village artisans from dwelling houses occupied by them and for other matters connected therewith. The said Act was to be in force only for two years. The said Act came into force on 2-10-1971 and as such will cease to be in force from 2-10-1973. It is felt that the period of enforceability of the said temporary enactment should be extended beyond 2-10-1973. The present Bill seeks to amend sub-section (4) of section 1 of the Goa, Daman and Diu (Protection from Eviction of Mundcars, Agricultural Labourers and Village Artisans) Act, 1971, so that the said Act will be in force upto 2-10-1975.

No financial implications are involved in this Bill.

Panaji,  
10th April, 1973.

PRATAPSINGH RANE  
Minister for Revenue

Assembly Hall,  
Panaji,  
10th April, 1973.

B. M. MASURKAR  
Secretary to the Legislative  
Assembly of Goa, Daman and Diu.

LA/A/7/928/73

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 11th April, 1973 is hereby published for general information in pursuance of the provisions of Rule 127 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Protection of Rights of Tenants (Cashewnut and Arecanut Gardens) (Amendment) Bill, 1973

(Bill No. 12 of 1973)

A  
BILL

*to extend the period of enforceability of the Goa, Daman and Diu Protection of Rights of Tenants (Cashewnut and Arecanut Gardens) Act, 1971.*

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-fourth year of Republic of India as follows:—

1. *Short title and Commencement:*— (1) This Act may be called the Goa, Daman and Diu Protection of Rights of Tenants (Cashewnut and Arecanut Gardens) (Amendment) Act, 1973.

(2) It shall come into force at once.

2. *Amendment of Section 1.*— In sub-section (4) of Section 1 of the Goa, Daman and Diu Protection of Rights of Tenants (Cashewnut and Arecanut Gardens) Act, 1971 for the words "two years" the words "four years" shall be substituted. 11 of 1971.

Statement of Objects and Reasons

In the year 1971, a temporary enactment called the Goa, Daman and Diu Protection of Rights of Tenants (Cashewnut and Arecanut Gardens) Act, 1971 was enacted to provide for the protection from eviction of tenants of cashewnut and arecanut gardens and for other matters connected therewith. The said Act is a temporary measure which will be in force only for a period of two years. The said Act came into force on 2-10-1971 and as such will be in force upto 1-10-1973. The reasons for keeping the Act in force only for two years is that the Government intended to bring an enactment to cover all aspects of land reforms under

which the rights of tenants will be safe-guarded. However the draft Bill which has been prepared and sent to Government of India for their prior approval is still under scrutiny. Thus the introduction and passing of the said comprehensive legislation would take some time. In view of this it is felt that the period of enforceability of the Goa, Daman and Diu Protection of Rights of Tenants (Cashewnut and Arecanut Gardens) Act, 1971, should be extended by another two years. If in the meantime the expected comprehensive legislation is enacted the present temporary enactment will be repealed.

## Financial Memorandum

No financial implications are involved in this Bill.

Panaji,  
10th April, 1973.

PRATAPSINGH RANE  
Minister for Revenue

Panaji,  
10th April, 1973.  
Assembly Hall,

B. M. MASURKAR  
Secretary to the Legislative  
Assembly of Goa, Daman and Diu.